

REMARKS

The Final Office Action mailed June 22, 2006 has been carefully considered.
Reconsideration in view of the following remarks is respectfully requested.

Claim Objections

Claim 1 has been amended to change "second" powered device to "first" powered device, to be more consistent with the remainder of the ^{claim} and the intended meaning thereof.

Rejection(s) Under 35 U.S.C. § 102

Claims 1-40 continue to be rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Bell (U.S. Patent No. 6,701,443).

Claims 1-40 have now been amended to include a second negotiator and to specify communications between the two negotiations. These communications are intended to provide a negotiated solution to any power allocation issues that may arise, as explained in the specification. As previously explained, Bell does not disclose such negotiations. In Bell, a power apparatus (26) includes a controller (30), signal generator (32) and detector (34). These components of the power apparatus operate to discover a powerability condition of the network, in order to determine if a powered device exists such that power can safely be transmitted thereto over the network. Such a function cannot be equated with negotiation as claimed in the present application and described in the supporting disclosure. Whereas in Bell only a determination of the presence or absence of a powered device is made, in the presently claimed invention power allocation issues are resolved through negotiations that occur between negotiators associated with different devices. Such negotiations are more than simple determinations of the presence or absence of a device, as in Bell. Negotiations imply consideration of the requirements of the different devices and reaching for example a hierarchical solution, reallocating power from one port or powered device to another, immediately shutting off power to all low priority

components, or implementing power savings incrementally. These and other solutions are discussed in for example paragraphs [0017] and [0018] of the specification.

It will be appreciated that, according to the M.P.E.P., a claim is anticipated under 35 U.S.C. § 102 only if each and every claim element is found, either expressly or inherently described, in a single prior art reference.¹ The absence of communications and negotiations between multiple negotiators associated with the different devices from Bell clearly indicate the contrary, and withdrawal of the 35 U.S.C. § 102 rejection based on Bell is respectfully urged.

Conclusion

In view of the preceding discussion, Applicants respectfully urge that the claims of the present application define patentable subject matter and should be passed to allowance.


If the Examiner believes that a telephone call would help advance prosecution of the present invention, the Examiner is kindly invited to call the undersigned attorney at the number below.

¹ Manual of Patent Examining Procedure (MPEP) § 2131. See also *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Please charge any additional required fees, including those necessary to obtain extensions of time to render timely the filing of the instant Amendment and/or Reply to Office Action, or credit any overpayment not otherwise credited, to our deposit account no. 50-1698.

Respectfully submitted,
THELEN REID & PRIEST, L.L.P.

Dated: 08/21/2006



Khaled Shami
Reg. No. 38,745

Thelen Reid & Priest LLP
P.O. Box 640640
San Jose, CA 95164-0640
Tel. (408) 282-1855
Fax. (408) 287-8040